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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/737,243	12/14/2000	Chris M. Pavlakos	P- 101-1	8351

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EXAMINER

RAMAKRISHNAIAH, MELUR

ART UNIT	PAPER NUMBER
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2643

DATE MAILED: 08/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/737,243

Applicant(s)  
Chris M. Pavlakos

Examiner  
Melur. Ramakrishnaiah

Art Unit  
2643



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Dec 14, 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, and 4-12 is/are rejected.
- 7) ☒ Claim(s) 3 is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 3 6) ☐ Other:

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***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2, 4-7, 10-12, are rejected under 35 U.S.C. 103(a) as being unpatentable over Hou (US PAT: 6,522,988 B1, filed 3-21-2000) in view of Sarel et al. (WO 98/02083, hereinafter Sarel ).

Regarding claim 1, Hou discloses an internet-based audiometric testing system, which includes: a test site internet based client CPU (for example 106, fig. 1) having hearing testing equipment operably connected therewith to produce tones in a first test to which a person responds in a manner such that audiometric software means operably associated with the test site CPU utilizes the responses for producing a first test data signal corresponding to the response (col. 4 lines 55-63), the software means further characterized to manipulate test data signal to produce first output data indicative of one characteristic of the test person's hearing level, a remote internet-based sever CPU (104, fig. 1) having means for receiving the first output data and personal information data of the person and presenting the data in a predetermined audiological

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test report from for review by a person (col. 5 lines 58-67, col. 6 lines 1-13, lines 62-67, col. 7 lines 1-22, and fig. 7).

Hou differs from claim 1 in that he does not teach the following: reviewing test report by a person certified in audiometric testing.

However, Sarel discloses a system and method for automatic management of summoning, identifying, self testing and/or self-tutoring of subjects which teaches the following: test report by a person certified in audiometric testing (page 17 lines 2-3, lines 9-14).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Hou's system to provide for the following: reviewing test report by a person certified in audiometric testing as this arrangement would provide analysis by an expert in the given field as to the reasonableness of the test results and follow up action as taught by Sarel.

Regarding claims 2, Hou does not teach the following: CPU located at the certified person site for receiving the test report data form to enable review thereof.

However, Sarel teaches the following: CPU located at the certified person site for receiving the test report data form to enable review thereof (page 17 lines 12-14).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Hou's system to provide for the following: CPU located at the certified person site for receiving the test report data form to enable review thereof as this arrangement would provide analysis by an expert in the given field as to the reasonableness of the test results and follow up action as taught by Sarel.

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Regarding claims 4-7, 10-11 Hou further teaches the following: tones in the second test are produced to which the test person responds in a manner utilized by the software means for producing a second test data signal corresponding to the response , the manipulating means manipulates the second test data signal to produce second output data signal indicative of another characteristic of the test persons hearing level and the receiving means further receives the second output signal associated with personal information data of the person and presents the data in the predetermined audiological test report data form (col. 13 lines 38-67, col. 14 lines 1-10), the remote internet based CPU server (104, fig. 1) stores the output data for the test person along with the personal information data (col. 12 lines 10-18), the remote internet based CPU includes means for editing the personal information data and output data upon subsequent receiving of the data to create a historical database of the test person, the manipulating means further compares the second output data to the first output data to produce a comparison data whether predetermined percentage variation is exceeded and wherein the report data form includes all the output data and the comparison output data (col. 12 lines 18-30, and fig. 7), software means resides on one of the test site internet based CPU client (106, fig. 1) and the remote internet based server CPU, software means resides on one of the test site internet based client CPU, remote internet based server CPU (104, fig. 1 lines 55-62).

Hou differs from claims 12 in that he does not teach the following: personal information data includes a unique identifier.

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However, Sarel teaches the following: personal information data includes a unique identifier (page 15 lines 28-33).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Hou's system to provide for the following: personal information data includes a unique identifier as this arrangement would facilitate identifying test subject for keeping records etc, as taught by Sarel.

3. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hou in view of Sarel as applied to claim 1 above, and further in view of Lake (US PAT: 3,906,158).

Regarding claim 8, the combination does not teach the following: test site internet based client CPU permits entry of environmental noise input data and wherein the software means utilizes the noise in producing reports.

However, Lake discloses method and apparatus for conducting audiometric tests which teaches the following: entry of environmental noise input data and wherein the software means utilizes the noise in producing reports (col. 2 lines 14-21, col. 5 lines 1-10).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the combination to provide for the following: test site internet based client CPU permits entry of environmental noise input data and wherein the software means utilizes the noise in producing reports as this arrangement would permit complete examination of hearing acuity of the subject and under exact environmental conditions to which subject will be exposed as taught by Lake, thus facilitating more realistic assessment of hearing conditions of the subject.

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4. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hou in view of Sarel as applied to claim 1 above, and further in view of Besserman (US PAT: 4,284,847)

Regarding claim 9, the combination does not teach the following: test site internet based CPU permits entry of noise reduction rating for equipment utilized by the person and wherein the software means utilizes the noise reduction rating of the equipment in producing first output data.

However, Besserman discloses audiometric testing, analyzing and recording apparatus and method which teaches the using the ear protection data for producing audiometric reports for the user which implies using noise reduction rating for equipment utilized by the person and wherein the software means utilizes the noise reduction rating of the equipment in producing first output data (see fig. 2 for hearing test record which lists ear protection muff, and fig. 1B, col. 11 lines 28-42).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the combination to provide for the following: test site internet based CPU permits entry of noise reduction rating for equipment utilized by the person and wherein the software means utilizes the noise reduction rating of the equipment in producing first output data as this arrangement would facilitate audiometric reports when the test subject is using ear protection equipment, thus producing audiometric reports under the situation when the test person has ear protection equipment.

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5. Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melur Ramakrishnaiah whose telephone number is (703) 305-1461. The examiner can normally be reached on Monday to Friday from 7 AM to 4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz, can be reached on (703) 305-4708. The fax phone number for this Group is (703) 305-9508.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

7. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**



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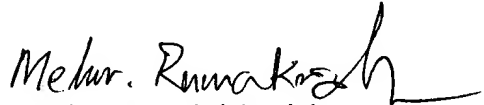
(703) 308-6306, (for formal communications intended for entry)

**Or:**

(703) 305-9508 (for informal or draft communications, please label

"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,  
Arlington, VA., Sixth Floor (Receptionist).

  
Melur. Ramakrishnaiah

PRIMARY EXAMINER

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